

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1169 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 - 2 yes 3 to 5 No

JARAB RAJAK QURESHI

Versus

CHELABHAI MAGANBHAI PATEL

Appearance:

MR HIMANSU M PADHYA for Petitioner
NOTICE SERVED for Respondent No. 1, 3, 5
MR YN RAVANI for Respondent No. 2
NOTICE UNSERVED for Respondent No. 4

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 27/02/98

ORAL JUDGEMENT

The grievance voiced by the petitioner in this revision application is that the petitioner has been awarded compensation under Section 140 of the Motor Vehicles Act from the date of production of medical certificate i.e. 27.3.1997. He submits that he is entitled to interest from the date of accident or in any

case from the date of filing of the claim under Section 140 of the Motor Vehicles Act. In support of the contention he relied on a decision in the case of ANITABEN VS. ABDULHAKIM SHAIKH reported in 1995 ACJ 831.

Mr. Ravani appearing for the respondent Insurance Company submits that no interest can be awarded on the compensation under Section 140 of the Motor Vehicles Act. He places reliance on the decision of the Rajasthan High Court in the case of DHAPA KANWAR VS. KISHANLAL reported in 1992 ACJ 163. On the other hand the learned counsel for the petitioner has relied on a Division Bench decision of the Rajasthan High Court in the case of KAMLA VS. RAJASTHAN STATE ROAD TRANS. CORPORATION reported in 1993 ACJ 958 and the Division Bench of the High Court of Karnataka in the case of KARNATAKA STATE ROAD TRANSPORT CORPORATION VS. GOWRAMMA reported in 1993 ACJ 1204.

Section 140 of the Motor Vehicles Act provides that where a death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall or as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this Section. Sub-section (3) of Section 140 provides that the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person. It is a beneficial provision giving sufficient powers to the Tribunal to be exercised to help the hapless persons. The object is to provide to the widows and orphans quickly and instantly to perempt and to prevent their destitution and vagrancy. Section 165 provides the claim Tribunal for adjudication of the claim for compensation in respect of the accidents involving death or bodily injury to persons arising out of the use of motor vehicles or damages to any property of a third party so arising or both. Section 171 provides of award of interest where any claim is awarded. Section 171 reads as follows:-

"Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf."

It is significant to notice that Section 171 does not use the word award. It simply says that where any claim Tribunal allows the claim for compensation may direct in its discretion in addition to the amount of compensation simple interest. Claim under Section 140 is also a claim. Thus, in my view interest can be awarded on interim claim under Section 140 or final claim under Section 165 of the Motor Vehicles Act. It appears that the attention of the learned Chief Justice deciding the DHAPA KANWAR VS. KISHANLAL's case reported in 1992 ACJ 163 was not invited to the provisions of Section 171 of the Motor Vehicles Act. The Division Bench of the same court while considering provisions of Section 171 has observed as follows:-

"Motor Vehicles Act, particularly Section 171, is a beneficial legislation and it should be interpreted for the benefit of claimants. The provision has been inserted with a view that the owners of the vehicles or the insurance companies may not put false and frivolous contentions before the Tribunal. It is expected from them that they would come forward immediately on the first date of hearing with a cheque or offer that they are ready to make the payment of Rs. 25000/as provided under Section 140 of the Act. If delaying tactics are adopted or if the amount is not offered forthwith, naturally, it will be the duty of the Tribunal to take a serious note of it and to award interest to curb the delaying tactics of payments provided under Section 171 of the Act."

Section 171 has been inserted with a view that the owners of the vehicles or the insurance company may not put false and frivolous contentions before the Tribunal. The same view has been taken by the Division Bench of the Karnataka High Court in the case of KARNATAKA STATE ROAD TRANSPORT CORPORATION VS. GOWRAMMA (*supra*). I am in agreement with the view of the Division Bench of the Rajasthan High Court as well as Karnataka High Court. In view of this, the contention raised by Mr. Ravani deserves to be rejected.

In view of the aforesaid the revision application is allowed and the order of the Motor Accident Claims Tribunal (Auxiliary), Banaskantha district at Palanpur dated 17.7.1997 is modified and it is directed that the petitioner shall be entitled to compensation under no fault liability with interest at the rate of 12 per cent per annum from the date of filing of the application

under Section 140 of the Motor Vehicles Act. Rule is
made absolute.

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